

CHAPTER 40 HEALTH OCCUPATIONS: GENERAL RULES

Secs.

4000	Applicability
4001	Application for a License, Certificate, or Registration
4002	Examination
4003	Cheating on an Examination
4004	Issuance of a License, Certificate, or Registration
4005	Renewal of a License, Certificate, or Registration
4006	Term of a License, Certificate, or Registration
4007	Temporary Licenses
4008	False or Misleading Communications and Advertising
4009	Regulation of Holders of Certificates or Registrations
4010	Reinstatement of an Expired License
4011	Reinstatement after Revocation
4012	Referral for Prosecution of Persons Committing Certain Offenses
4013	Computation of Time
4014	License or Certificate by Reciprocity
4099	Definitions

4000 APPLICABILITY

- 4000.1 This chapter shall apply to holders of and applicants for a license, certificate, or registration.
- 4000.2 Other chapters of this subtitle pertaining to specific health occupations shall supplement this chapter.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §302(14) of the District of Columbia Health Occupations Revision Act of 1985, D.C. Law 6-99, D.C. Code §2-3303.2(14) (1988 Repl. Vol.), 33 DCR 729, 732 (February 7, 1986), and Mayor's Order 86-110, 33 DCR 5220 (August 22, 1986).

SOURCE: Final Rulemaking published at 34 DCR 5859 (September 11, 1987).

4001 APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION

- 4001.1 An applicant for a license, certificate, or registration shall do the following:

- (a) Submit a completed application on the prescribed form;
- (b) Have the application sworn to before a notary public;
- (c) Submit with the application two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2"x2");
- (d) Pay the required fee(s);

- (e) Submit all required supporting documents, with the completed application, including transcripts, character and employment references, certified or validated test scores, and, if applicable, certified proof of licensure in other jurisdictions, except as provided in §4001.1(f); and
- (f) Arrange for the required transcript, certificate of graduation, test results, certification or proof of licensure to be sent directly to the Board from the educational institution, testing service, professional association or government agency if the educational institution, testing service, association or agency will not provide these documents to the applicant.

4001.2 Documents submitted with the completed application form pursuant to §4001.1(e) shall comply with the following:

- (a) Certificates of graduation, transcripts, test results and other official documents or certifications shall be submitted in an envelope sealed by the educational institution, testing service, professional association or other agency; and
- (b) Letters of reference shall be submitted in envelopes which have been sealed and signed across the back flap of the envelope by the individual providing the reference.

4001.3 If a board or the Director determines that an application is not in compliance with §4001.1, the application shall be returned to the applicant, unless the board or the Director determines that the deficiency is minor. If the application is returned, the Director may, in his or her discretion, return the application fee to the applicant.

4001.4 If a board or the Director determines that an application is not in compliance with §4001.1, but that the deficiency is minor, the Director shall send a notice of the deficiency to the applicant. Upon receipt of the notice, the applicant shall correct the deficiency within thirty (30) days or other period specified in the notice.

4001.5 If the applicant fails to correct the deficiency within the required period, the application shall lapse and the applicant shall be required to submit a new application and pay the required fees to be considered for a license, certificate or registration.

SOURCE: Final Rulemaking published at 34 DCR 5859 (September 11, 1987); as amended by Final Rulemaking published at 37 DCR 2747, 2748 (May 4, 1990).

4002 EXAMINATION

4002.1 An applicant desiring to take an examination shall submit an application in compliance with §4001.1 to the board at least ninety (90) days prior to the date of the examination.

4002.2 An applicant who has previously taken the examination shall submit such an application at least sixty (60) days prior to the date of the examination.

4002.3 An applicant may not take an examination unless the materials required by §4001.1(e) are received by the board at least forty-five (45) days prior to the date of the examination.

- 4002.4 A board may, in its discretion, permit an applicant to take an examination on a provisional basis although transcripts or other materials are not received within the period provided in §4002.3.
- 4002.5 A board or the Director, in the discretion of the board or Director, may reduce the required periods in §4002.1 through §4002.3.
- 4002.6 The Director shall notify each applicant of the date, time, and place of the examination and of any examination procedures at least ten (10) days (excluding Saturdays, Sundays, legal holidays, and days on which the Department is officially closed) prior to the date of the examination.
- 4002.7 The Director shall arrange for suitable space for an examination, designate persons to proctor the examination, and provide for adequate security to ensure the integrity of the examination process.
- 4002.8 The Director shall notify each applicant whether the applicant passed the examination as soon as practicable after the Director receives the examination results, unless the applicant is notified directly by a testing service.
- 4002.9 An applicant who fails an examination may not challenge the results of the examination before a board or the Director.
- 4002.10 If a testing service informs a board in writing that it erroneously determined that an applicant failed an examination and certifies to the board that the applicant passed the examination, the board shall grant a license to the applicant if the applicant has met all other qualifications for a license and has paid all required fees.
- 4002.11 If an applicant does not take an examination, the application fee shall not be refunded or credited to another examination unless a board or the Director determines that the applicant was unable to take the examination because of the following:
- (a) Illness or injury; or
 - (b) Death or serious illness of or injury to a member of the applicant's immediate family.
- 4002.12 A board or the Director, in making a determination under §4002.11, may require a doctor's certificate or other satisfactory evidence of illness or injury.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5860 (September 11, 1987).

4003 CHEATING ON AN EXAMINATION

- 4003.1 No person shall cheat or assist another in cheating on an examination required under this subtitle or the Act.
- 4003.2 As used in this section, "cheating" includes, but is not limited to, the following:
- (a) Communication relating to the examination between applicants inside or outside of an examination room or copying another applicant's answers while an examination is in progress;

- (b) Communication relating to an examination with others outside of an examination room while the examination is in progress;
- (c) Substitution by an applicant of another person to sit in an examination room in the applicant's place; and
- (d) Use of crib sheets, text books, or other materials not authorized by the board inside or outside an examination room while an examination is in progress.

4003.3 If a person designated to proctor an examination suspects that an applicant is cheating or has cheated on the examination, the person shall do the following:

- (a) If necessary, seat the applicant in a segregated location for the remainder of the examination;
- (b) Keep a record of the applicant's seat location and identification number, and the names and identification numbers of the applicants on either side of the applicant;
- (c) Confiscate any materials or devices that are suspected of being used by the applicant to cheat on the examination;
- (d) Permit the applicant to complete the examination; and
- (e) Notify the testing service, the board, and the Director that the applicant is suspected of cheating and provide the board with a copy of the examination booklet and any evidence obtained by the person proctoring the examination.

4003.4 If a board has cause to believe that an applicant has cheated or has failed to comply with an instruction of a proctor given pursuant to §4003.3, it may propose to deny a license, impose a civil fine, or take other actions pursuant to the procedures set forth in §4102 of chapter 41 of this title.

4003.5 If a board determines, in accordance with the procedures set forth in chapter 41 of this title, that an applicant cheated on an examination, in addition to any other consequences under the Act or this subtitle, the applicant shall not be eligible to take another examination for a period of one (1) year from the date of the decision of the board, or other period established by the board in its order.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5861 (September 11, 1987).

4004 ISSUANCE OF A LICENSE, CERTIFICATE, OR REGISTRATION

4004.1 After a determination by a board that an applicant for a license, certificate, or registration meets all of the requirements for the license, certificate, or registration under this subtitle and the Act, including the payment of all required fees, the Director shall issue the license, certificate, or registration to the applicant.

4004.2 The Director shall indicate on the face of the license, certificate, or registration any restriction on the license, certificate, or registration required by a board.

4004.3 An applicant for a license, certificate, or registration who is notified by the Director or a board that the application is approved shall pay the required license fee within one hundred and eighty (180) days of the date of the initial notice.

4004.4 The Director or a board shall send the notice by first class mail to the applicant at the applicant's address on file with the Director.

4004.6 If the applicant fails to pay the required fee within this period, the application shall lapse and the applicant shall be required to submit a new application and pay the required application fees to be eligible for a license, certificate, or registration.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5862 (September 11, 1987).

4005 RENEWAL OF A LICENSE, CERTIFICATE, OR REGISTRATION

4005.1 The Director shall send a renewal application to a holder of a license, certificate, or registration by first class mail to the holder's address on file with the Director at least sixty (60) days prior to the expiration of the license, certificate, or registration.

4005.2 To be eligible for renewal, the holder of a license, certificate, or registration shall meet all of the requirements for renewal under this subtitle and the Act.

4005.3 A holder of a license, certificate, or registration shall notify the Department in writing of any change of home or business address within thirty (30) days of the change of address.

4005.4 The failure of a holder of a license, certificate, or registration to receive the notice required by §4005.1 does not relieve the holder of the responsibility of renewing the license, certificate, or registration.

4005.5 A holder of a license, certificate, or registration who fails to renew prior to the expiration date may renew the license, certificate, or registration within sixty (60) days after expiration upon paying the required late fee. Upon renewal, the holder shall be deemed to have possessed a valid license, certificate, or registration during the period between the expiration of the license, certificate, or registration and the renewal thereof.

4005.6 If a holder of a license, certificate, or registration fails to renew the license, certificate, or registration within sixty (60) days after the expiration, the license, certificate, or registration shall be considered to have lapsed on the date of expiration, and the holder shall be required to apply for reinstatement and pay the required reinstatement fee, in accordance with the applicable provisions of this subtitle and the Act.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5863 (September 11, 1987).

4006 TERM OF A LICENSE, CERTIFICATE, OR REGISTRATION

4006.1 The term of a license, certificate, or registration issued or renewed pursuant to this subtitle shall be two (2) years.

4006.2 The term of a license, certificate, or registration issued or renewed pursuant to this subtitle shall expire on the date established by this subtitle for the particular health occupation, unless the Director changes the renewal system pursuant to §4006.3.

4006.3 The Director may change the renewal system whereby the license, certificate, or registration expires on the last day of the month of the birthdate of the applicant for

or holder of the license, certificate, or registration, or by some other means for the administrative convenience of the Director.

- 4006.4 If the Director changes the renewal system under §4006.3, in order to permit an orderly transition, the term of a license, certificate, or registration that is in effect on the date of the Director's determination may be extended up to three (3) years.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5864 (September 11, 1987).

4007 TEMPORARY LICENSES

- 4007.1 A board may issue temporary licenses pursuant to this section if the Director determines in writing, on the request of a board or on the Director's own determination, that the issuance of temporary licenses to practice a health occupation is necessary to protect the health and welfare of the citizens of the District.
- 4007.2 Upon a determination of the Director in writing that the issuance of temporary licenses is no longer necessary to protect the health and welfare of the citizens of the District, the authority of a board to issue temporary licenses pursuant to this section shall cease, but a temporary license issued prior to the determination of the Director shall remain valid until it expires.
- 4007.3 A board may impose restrictions on practice by a holder of a temporary license before or after the license is issued. The board may remove or modify any restrictions on a temporary license. The Director shall indicate any restriction on a temporary license on the face of the license or otherwise give notice of the restriction.
- 4007.4 A board may issue a temporary license pursuant to this section only to the following persons:
- (a) An applicant for a regular license who is licensed in another jurisdiction of the United States and is applying for licensure by reciprocity or endorsement; or
 - (b) An applicant who meets all qualifications for a license except for the successful completion of an examination and who has applied to take the next scheduled examination pursuant to §4002.
- 4007.5 The duration of a temporary license issued under this section shall be established by the Director, but shall not exceed ninety (90) days.
- 4007.6 An applicant for a temporary license shall submit a separate application for temporary licensure on a form approved by the Director and pay the required fee for a temporary license.
- 4007.7 A holder of a temporary license shall not represent in any manner that the holder is a regularly licensed health professional or use the terms or abbreviations restricted to regularly licensed health professionals by §1003 of the Act, D.C. Code §2-3310.3 (1987 Supp).
- 4007.8 Except as proved in this section, the holder of a temporary license is subject to the applicable provisions of the Act including, but not limited to, the following:

- (a) Section 509, D.C. Code §2-3305.9 (1987 Supp.) (scope of license);
- (b) Section 513, D.C. Code §2-3305.13 (1987 Supp.) (display of licenses; change of address);
- (c) Section 514, D.C. Code §2-3305.14 (1987 Supp.) (revocation, suspension or denial of license or privilege; civil penalty; reprimand);
- (d) Section 515, D.C. §2-3305.15 (1987 Supp.) (summary action);
- (e) Section 516, D.C. Code §2-3305.16 (1987 Supp.) (cease and desist orders); and
- (f) Section 517, D.C. Code §2-3305.17 (1987 Supp.) (voluntary surrender of license).

4007.9 The holder of a temporary license who violates the restrictions placed on the license shall be subject to the criminal, civil, and administrative sanctions of the Act.

4007.10 A board may revoke a temporary license without a hearing for any reason that the board determines to be in the interests of the health or welfare of the citizens of the District, upon a minimum of five (5) days notice given in the manner prescribed by §4105 of chapter 41 of this title.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5864 (September 11, 1987).

4008 FALSE OR MISLEADING COMMUNICATIONS AND ADVERTISING

4008.1 A health professional shall not make or cause to be made a false or misleading communication about the health professional or the health professional's services.

4008.2 A health professional shall not falsely represent that the health professional is certified by, a member of, or otherwise endorsed by, a professional society, association, or other organization.

4008.3 A health professional shall not communicate the fact that the health professional practices a particular health occupation, or specializes in a particular field of the health occupation, unless the health professional is in fact a specialist in the particular field indicated or possesses any certificate required by the health profession to be a specialist in the field.

4008.4 Subject to this section, a health professional may advertise professional services through media, such as a telephone directory, legal directory, newspaper or other periodical, radio or television, or through written communication not involving personal contact.

4008.5 As used in this section, a communication is "false" or "misleading" if it:

- (a) Contains a material misrepresentation or omits to make a representation necessary to make the statement considered as a whole not misleading; or
- (b) Contains an assertion about the health professional or the health professional's services that cannot be substantiated.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5866 (September 11, 1987).

4009 REGULATION OF HOLDERS OF CERTIFICATES OR REGISTRATIONS

4009.1 A board may take the same disciplinary actions against the holder of a certificate or registration as it may take against the holder of a license under §514 of the Act, D.C. Code §2-3305.14 (1987 Supp.) for the grounds stated in that section.

4009.2 The Director may take any action with respect to the holder of a registration that a board is authorized to take under the Act or this subtitle against the holder of a license or certificate.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5867 (September 11, 1987).

4010 REINSTATEMENT OF AN EXPIRED LICENSE

4010.1 This section applies to the following:

- (a) An applicant for reinstatement of an expired license issued under the Act, in accordance with §512 of the Act, D.C. Code §2-3305.12 (1987 Supp.); and
- (b) An applicant for reinstatement of an expired license or certificate issued under a law repealed or amended by the Act.

4010.2 An applicant for reinstatement under this section shall file an application with the board on the prescribed form and shall pay the required reinstatement fee.

4010.3 An applicant for reinstatement under this section shall demonstrate fitness to resume practice by submitting evidence satisfactory to the board that the applicant has the competency and knowledge of District and federal laws necessary to resume practice of the health occupation and that the applicant's resumption of practice will not be detrimental to the public interest or the integrity of the health profession.

4010.4 In making a determination pursuant to §4010.3, the board shall consider the following:

- (a) The length of time that the applicant had practiced in the District or other jurisdictions;
- (b) The length of time after expiration of the applicant's license that the applicant was not practicing the health profession in the District or other jurisdictions;
- (c) Any violations by the applicant of the Act, this subchapter, or other laws, or other conduct by the applicant that would be grounds for discipline under the Act;
- (d) The applicant's present character; and
- (e) The applicant's present qualifications and competency to practice the health occupation.

4010.5 A board may require an applicant to complete certain educational or training requirements, in addition to any continuing education requirements, to be completed prior to or after reinstatement to ensure that the applicant is competent to practice the health occupation.

4010.6 A person who was licensed as a health professional under a law repealed by the Act and who was not licensed under the Act may apply for reinstatement pursuant to this section by March 25, 1991. After this date, such a person must apply as an applicant for a new license.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5867 (September 11, 1987).

4011 REINSTATEMENT AFTER REVOCATION

4011.1 A health professional whose license, certificate, or registration has been revoked, or whose application for reinstatement has been denied, shall be ineligible to apply for reinstatement for a period of one (1) year from the date of the revocation or denial, unless otherwise provided in the board order of revocation or denial.

4011.2 An applicant for reinstatement under this section shall file an application with the board on the prescribed form and shall pay the required reinstatement fee.

4011.3 In addition to the requirements of §4011.2, and applicant for reinstatement shall demonstrate fitness to resume practice by submitting evidence satisfactory to the board that the applicant has the moral qualifications, competency, and knowledge of District and federal laws necessary to resume practice of the health occupation and that the applicant's resumption of practice will not be detrimental to the public interest or the integrity of the health profession

4011.4 In making a determination pursuant to §4011.3, the board shall consider, among other factors, the following:

- (a) The nature and circumstances of the conduct, or the mental or physical condition, for which the applicant's license, certificate, or registration was revoked;
- (b) The applicant's recognition and appreciation of the seriousness of any misconduct;
- (c) The applicant's conduct, or mental or physical condition, since the revocation, including steps taken by the applicant to remedy prior misconduct and prevent future misconduct, or to remedy the mental or physical condition;
- (d) The applicant's present character; and
- (e) The applicant's present qualifications and competency to practice the health occupation.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5868 (September 11, 1987).

4012 REFERRAL FOR PROSECUTION OF PERSONS COMMITTING CERTAIN OFFENSES

4012.1 A District employee or member of a board shall inform the Director and the board if the employee or board member has good cause to believe that a person has committed one (1) of the following offenses in connection with an application for a license, certificate, or registration or in any proceeding before a board or the Director:

- (a) Wilfully making a false statement of a material fact under oath at a hearing or other proceeding which the person does not believe is true and in fact is not true in violation of D.C. Code §22-2511 (1987 Supp.) (perjury);
- (b) Wilfully procuring another to commit perjury in violation of D.C. Code §22-2512 (1987 Supp.) (subornation of perjury);
- (c) Wilfully making a false statement of a material fact on an application or other official document that was sworn to before a notary public in violation of D.C. Code §22-2513 (1987 Supp.) (false swearing); or
- (d) Wilfully making a false statement in writing of a material fact or which statement would reasonably be expected to be relied upon as true in violation of D.C. Code §22-2514 (1987 Supp.) (false statements).

4012.2 If the Director or the board determines that there is good cause to believe that a person committed one of the offenses listed in §4012.1, the Director or board may refer the matter to the United States Attorney for the District of Columbia for prosecution.

4012.3 All application forms for a license, certificate, or registration under this subtitle shall contain a notice that states in substance that:

“ The making of a false statement on this application or on documents required by this application is punishable by criminal penalties.”

SOURCE: Final Rulemaking published at 34 DCR 5859, 5869 (September 11, 1987).

4013 COMPUTATION OF TIME

4013.1 In computing any period of time specified in this chapter, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday or day on which the Department is officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which the Department is officially closed.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5870 (September 11, 1987).

4014 LICENSE OR CERTIFICATE BY RECIPROCITY

4014.1 An applicant for a license or certificate by reciprocity shall furnish proof satisfactory to the board regulating the health occupation of either of the following:

- (a) That the applicant is licensed or certified and in good standing as a member of the health occupation for which the applicant seeks a license or certificate in a jurisdiction on the list developed by the board pursuant to §4014.3, by submitting from the jurisdiction a certificate of licensure or certification in good standing; or
- (b) Proof of the following:
 - (1) That the applicant is licensed or certified and in good standing as a member of the health occupation for which the applicant seeks a license or certificate in a jurisdiction of the United States with requirements which are substantially equivalent to the requirements of the Act, by submitting from the jurisdiction a certificate of licensure or certification in good standing; and
 - (2) That the jurisdiction in which the applicant is licensed or certified admits members of the health occupation for which the applicant seeks a license or certificate who are licensed or certified by the District in a like manner as the District admits members of that health occupation who are licensed or certified in that jurisdiction, by arranging for the jurisdiction to provide to the Board a certificate or other written statement, signed by appropriate officials.

4014.2 A board, in its discretion, may deny an application for a license by reciprocity of a person against whom disciplinary action has been taken, or who has been convicted of a crime bearing on the applicant's fitness to practice, in another jurisdiction.

4014.3 A board may develop a list of jurisdictions whose requirements for licensure or certification are substantially equivalent to the requirements of the Act and which admit members of the health occupation regulated by the board who are licensed or certified in the District in a like manner as the District admits members of that health occupation who are licensed or certified in those jurisdictions.

4014.4 A board may interview an applicant under this section to determine whether the applicant's education, training, or character meets the requirements of the Act and this subtitle.

4014.5 A board, in its discretion, may grant a provisional license or certification not to exceed ninety (90) days to an applicant who has met the requirements of this subtitle except for the receipt by the board of required certification or other proof of licensure or certification in the other jurisdiction; Provided, that the board determines to its satisfaction, by telephone inquiry or other means, that the applicant has a license or certificate in good standing from the jurisdiction.

4014.6 The Director shall issue a provisional license granted by a board pursuant to §4014.5.

SOURCE: Final Rulemaking published at 35 DCR 2240 (March 25, 1988).

4099 DEFINITIONS

4099.1 As used in this chapter, the following words and phrases shall have the meanings ascribed:

Act - the District of Columbia Health Occupations Revisions Act of 1985, D.C. Law 6-99, D.C. Code §§2-3301 to 2-3312.1 (1987 Supp.)

Board - the Board of Dentistry, Board of Dietetics and Nutrition, Board of Medicine, Board of Nursing, Board of Nursing Home Administration, Board of Occupational Therapy, Board of Optometry, Board of Pharmacy, Board of Physical Therapy, Board of Psychology, Board of Podiatry, or Board of Social Work established by the Act, as the context requires.

Certificate - a certificate to practice a specialty of a health occupation issued by a board pursuant to this subtitle or the Act.

Day - a calendar day.

Department - the Department of Consumer and Regulatory Affairs.

Director - the Director of the Department of Consumer and Regulatory Affairs, or the Director's designee.

Legal holiday - one of the following holidays:

- (a) New Year's Day;
- (b) Martin Luther King, Jr.'s Birthday;
- (c) Washington's Birthday;
- (d) Memorial Day;
- (e) Independence Day;
- (f) Labor Day;
- (g) Columbus Day;
- (h) Veterans Day;
- (i) Thanksgiving Day;
- (j) Christmas Day; or
- (k) Any other day designated as a legal holiday by the President, the Congress, the Mayor or the Council of the District of Columbia, on the actual day the legal holiday is celebrated by the government of the District of Columbia.

License - a license to practice a health occupation issued by a board pursuant to this subtitle or the Act.

Registration - a registration required to practice a health occupation issued pursuant to this subtitle or the Act.

SOURCE: Final Rulemaking published at 34 DCR 5859, 5870 (September 11, 1987).

